MSS

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 642 OF 2007

SARASWATI SHIKSHAN SANSTHA & ANR. PETITIONERS

Vs.

THE EDUCATION OFFICER (SECONDARY)
ZILLA PARISHAD, NASHIK & ORS. RESPONDENTS

Mr. Mandar Limaye for petitioners

Mrs. S. S. Bhende, AGP.

CORAM: SMT. RANJANA DESAI &
SMT. R.S. DALVI, JJ.

DATE: NOVEMBER 29, 2007.

P.C.

. Petitioner 1 is a public trust registered under the Bombay Public Trust Act, 1950 and the Societies Registration Act, 1860.

2. The petitioners are aggrieved by the withdrawal of recognition of their school by the 2nd and 3rd respondents without hearing them. It would be advantageous to begin with certain undisputed facts which are stated in the affidavit in reply filed by Mr. Ashok Jagannath Sonawane, Deputy Education Officer (Secondary) Zilla Parishad, Nasik.

. It appears that as the management of petitioner No. 1 was not conducting Saraswati Vidyalaya properly and because it did not appoint required number of teaching and non-teaching staff and because there was no infrastructure, the Deputy Director of Education, Nasik, by his order dated 18/5/98 withdrew the recognition of the petitioners' school situated at Nimgaon Taluka Sinnar, District Nasik. Against the said order, the petitioners preferred an appeal before the Director of Education, Maharashtra State, Pune and also filed an application for stay of the order dated 18/5/98. Because stay was refused, the petitioners filed writ petition in this court being Writ Petition No. 2743 of 1998. This court stayed the order dated 18/5/98 till orders are passed by the Director of Education, Maharashtra State, Pune. The writ petition was accordingly disposed of.

. By order dated 3rd July, 1998, the Director of Education, Maharashtra State, Pune disposed of the petitioners' appeal along with the application for stay and confirmed the order dated 18/5/98 passed by the Deputy Director of Education, Nasik withdrawing recognition of the petitioners' school.

. Against the said order, the petitioners filed Writ Petition No. 3925 of 1998. That writ petition was disposed of by order dated 14/12/05 by this court as infructuous. We may quote the relevant order:

. "Petition is disposed of as infructuous. In the event the petitioner feels that it is not so, application seeking restoration giving cogent reasons can be filed within four weeks.

. 14.12.2005."

. It appears that pursuant to this order, the petitioners filed civil application for seeking restoration. That civil application as well as the writ petition was disposed of by the Division Bench of this court on 14/2/06 by passing the following order:

. "Heard learned counsel for the petitioner. The writ petition was directed against the order of the Deputy Director of Education passed on 19th June, 1998. The order states that the earlier decision of withdrawal or recognition of the school is cancelled. No stay was granted to this decision at

the time of admission of the petition in the year 1998. Without recognition the school cannot run and must not be running authorizedly for the period of more than 1 year. We are, therefore, of the opinion that the earlier order passed by this court disposing of the petition as infructuous is appropriate order and no interference is called for. Application stands disposed of".

. The petitioners carried a Special Leave Petition to the Supreme Court against the order dated 14/2/06. That Special Leave Petition was dismissed on 5/4/07.

3. It appears that thereafter Grampanchayat filed writ petition in this Court being Writ Petition No. 6829 of 2006 praying that Grampanchayat may be permitted to run the school. The said writ petition was disposed of as withdrawn.

4. It appears that on 14/6/06 after receiving the order of this court dated 14/2/06 passed in Writ Petition No. 3925 of 1998, the Deputy Director of Education, Nasik suo motu passed an order again refusing recognition to the petitioners' school. This order was confirmed by the Director of

Education on 29/7/06. The petitioners' grievance is that they should have been given notice as per the rules and recognitions and recognition could not have been withdrawn without hearing the petitioners.

5. We find no substance in this contention. The recognition was withdrawn as far back as in 1998. The order of withdrawal of recognition has been confirmed upto the Supreme Court. In fact order dated 14/2/06 passed by this court in Writ Petition No. 3925 of 1998 should put all doubts to rest. Order dated 14/12/05 passed in Writ Petition No. 3925 of 1998 is not understood by Deputy Director of Education. This order does not direct the management to file any application or the Deputy Director to consider the petitioner's case again. There was, therefore, no question of giving any hearing to the petitioners. Needless to say that it will not be open to the petitioners to run the school unauthorisedly. In our opinion, there is no substance in the petition. The petition is dismissed.

JUDGE

JUDGE